THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.15802 OF 1995

DATED 14th NOVEMBER, 2006

BETWEEN:

District Forest Officer, Srikakulam.

… Petitioner

AND

The Deputy Director, Mines & Geology, Visakhapatnam and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.15802 OF 1995

ORDER:

On an application made by the fourth respondent on 26.03.1993 for grant of quarry lease for colour granite over an extent of 2 hectares in survey No.177 of Tarlakota village of Palasa Mandal in Srikakulam District, the first respondent after getting the application processed by the second respondent, issued proceedings No.1108/Q1/93, dated 15.05.1993 granting quarry lease in favour of fourth respondent for a period of fifteen years. Assailing the said proceedings, dated 15.05.1993, the District Forest Officer, Srikakulam filed the writ petition on 18.07.1995 mainly alleging that the land in survey No.177 is part of Tarlakota Reserve Forest Block consisting of Acs.2,325 spread over Dhanagara, Siripur and Tallabhadra by reason of Notification issued by the Government under Section 15 of A.P.Forests Act, 1967 vide G.O.Ms.No.754, dated 06.10.1977. The main contention of the petitioner is that granting of a quarry lease in forest land is prohibited as per Section 2 of the Forest Conservation Act, 1980 (Central Act).

The Deputy Director of Mines and Geology, Visakhapatnam, filed detailed counter affidavit. It is stated that after receiving the application of the fourth respondent for grant of quarry lease, the matter was referred to Mandal Revenue Officer, Palasa (MRO). After verifying the records, MRO issued 'No Objection Certificate' from the District Collector, Srikakulam, vide letter, dated 17.04.1993. According to this letter, the

land admeasuring Acs.726.10 in survey No.177 of Tarlakota village is classified as Konda Poramboke and therefore, it is not a forest land. A reference is also made to the order of this Court in W.P.M.P.No.5556 of 1995 in W.P.No.4516 of 1995, dated 20.03.1995 wherein the officials were directed not to interfere with mining operations of the fourth respondent if the lease is not suspended/cancelled. A reference is also made to the order passed by this Court in W.P.M.P.No.5556 of 1995, dated 26.07.1995, directing the Assistant Director, Survey and Land Records, Srikakulam, to conduct survey of the land after giving notice to the lessee and the Forest Range Officer, Kasibugga. A further allegation is made that the District Forest Officer has no recorded evidence to show that the area over which quarry lease is granted to the fourth respondent is a forest area. The petitioner has not filed any reply affidavit denying the counter averments.

The main contention of the petitioner as disclosed in the affidavit accompanying the writ petition is that grant of mining lease in favour of fourth respondent in forest area offends Section 2 of Forest Conservation Act. Strong reliance is placed on G.O.Ms.No.754, dated 06.10.1977 by which Notification under Section 15 of A.P.Forest Act was published. It is no doubt true that the land in survey Nos.221, 177 and 104 in Dhanagara, Siripur and Tallabhadra was described as Hill Poramboke as mentioned under the column details of the areas included in the forest. That itself, in the absence of any other evidence, can be treated as conclusive to arrive at a finding that the leased area of 2 hectares forms part of forest area. That is the reason why (as disclosed in the counter affidavit) this Court ordered a survey by Assistant Director of Survey and Land Records after giving notice to Forest Range Officer, Kasibugga and the lessee. It appears transport permits were not issued to fourth respondent as directed by this Court and presumably for this reason the petitioner did not pursue the matter with the survey authorities. Be that as it is, now that the Forest Department has raised dispute, it is always open to the petitioner to bring it to the notice of the first respondent about the bar under Section 2 of the Forest Conservation Act to lease out forest area for the purpose so that appropriate action can be taken to remedy the situation. When the lease was granted on 15.05.1993, the writ petition is filed after delay of two years and out of fifteen years of lease period, the fourth respondent has already enjoyed the lease for a period of thirteen years. Therefore, this Court is not inclined to set aside the order of the first respondent.

The writ petition is accordingly disposed of with the above observations and directions. No costs.

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(V.V.S.RAO,J)

14.11.2006
pln